

J. CHARLES COONS, ESQ.
Nevada Bar No. 10553
ccoons@righthaven.com
Assistant General Counsel at Righthaven
JOSEPH C. CHU, ESQ.
Nevada Bar No. 11082
jchu@righthaven.com
Staff Attorney at Righthaven
Righthaven LLC
9960 West Cheyenne Avenue, Suite 210
Las Vegas, Nevada 89129-7701
(702) 527-5900
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RIGHTHAVEN LLC, a Nevada limited-
liability company,

Plaintiff,

v.

AUTOMOTIVE.COM, LLC, a Delaware
limited-liability company; and SOURCE
INTERLINK MEDIA, LLC, a Delaware
limited-liability company,

Defendants.

Case No.: 2:10-cv-01624

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Righthaven LLC (“Righthaven”) complains as follows against Automotive.com, LLC
 (“Automotive”) and Source Interlink Media, LLC (“Source Interlink”; collectively with
 Automotive known herein as the “Defendants”) on information and belief:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. Automotive is, and has been at all times relevant to this lawsuit, a Delaware limited-liability company.

5. Source Interlink is, and has been at all time relevant to this lawsuit, a Delaware limited-liability company.

6. Source Interlink is, and has been at all times relevant to this lawsuit, identified by the Florida Secretary of State entity database as the managing entity of Automotive.

7. Automotive is, and has been at all times relevant to this lawsuit, identified by the current registrar, Network Solutions, LLC (“Network Solutions”), as the registrant, administrative contact and technical contact of the Internet domain found at <motortrend.com> (the “Domain”).

8. Source Interlink is, and has been at all times relevant to this lawsuit, the self-proclaimed owner of the copyright(s) in the work(s) posted as part of the content accessible through the Domain (said content accessible through the Domain and the Domain itself known herein as the “Website”), as evidenced by a copyright notice displayed on the Website: “© 2010 MotorTrend Magazine, Source Interlink Media All rights reserved.”

JURISDICTION

9. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

10. Righthaven is the owner of the copyright in the literary work entitled: “Protestors against transgendered, gay discrimination block Strip” (the “Work”), attached hereto as Exhibit 1.

1 11. At all times relevant to this lawsuit, the Work has depicted and depicts the
2 original source publication as the Las Vegas *Review-Journal*.

3 12. The Defendants willfully copied, on an unauthorized basis, a substantial and
4 significant portion of the Work from a source emanating from Nevada.

5 13. On or about July 21, 2010, the Defendants displayed, and continue to display, an
6 unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 2, on the
7 Website.

8 14. The subject matter, at least in part, of the Work and the Infringement, is a protest
9 against gay and transgendered discrimination that blocked the Las Vegas Strip.

10 15. At all times relevant to this lawsuit, the Defendants knew that the Work was
11 originally published in the Las Vegas *Review-Journal*.

12 16. At all times relevant to this lawsuit, the Defendants knew that the Infringement
13 was and is of specific interest to Nevada residents.

14 17. The Defendants’ display of the Infringement was and is purposefully directed at
15 Nevada residents.

16 18. The Defendants knew, or reasonably should have known, that websites, such as
17 the Website, are and were at all times relevant to this lawsuit, the habitual subject of postings by
18 others of copyright-infringing content.

19 19. At all times relevant to this lawsuit, the Defendants did not institute any proactive
20 policy of precluding or attempting to preclude the posting by others of copyright-infringing
21 content on the Website.

22 20. At all times relevant to this lawsuit, the Defendants did not institute any proactive
23 policy of monitoring or attempting to monitor the posting by others of copyright-infringing
24 content on the Website.

25 21. At all times relevant to this lawsuit, the Defendants did not institute any proactive
26 policy of deleting or attempting to delete the posting by others of copyright-infringing content on
27 the Website.
28

22. At all times relevant to this lawsuit, the Defendants' failure to institute any proactive policies intended to address the posting by others of copyright-infringing content on the Website constituted and constitutes the Defendants' willful blindness to copyright infringements occurring on the Website.

VENUE

23. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim for relief are situated in Nevada.

24. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(c), because Automotive is subject to personal jurisdiction in Nevada.

25. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(c), because Source Interlink is subject to personal jurisdiction in Nevada.

26. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1400(a), because the Defendants are subject to personal jurisdiction in Nevada.

FACTS

27. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).

28. Righthaven is the owner of the copyright in and to the Work.

29. The Work was originally published on July 20, 2010.

30. On September 15, 2010, the United State Copyright Office (the "USCO") received Righthaven's official submittal for the registration of the Work including the application, the deposit copy, and the registration fee (the "Complete Application"), Service Request No. 1-487413308, attached hereto as Exhibit 3.

1 31. On or about July 21, 2010, the Defendants displayed, and continue to display, the
2 Infringement on the Website.

3 32. The Defendants did not seek permission, in any manner, to reproduce, display, or
4 otherwise exploit the Work.

5 33. The Defendants were not granted permission, in any manner, to reproduce,
6 display, or otherwise exploit the Work.

7
8 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

9 34. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
10 33 above.

11 35. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
12 U.S.C. § 106(1).

13 36. Righthaven holds the exclusive right to prepare derivative works based upon the
14 Work, pursuant to 17 U.S.C. § 106(2).

15 37. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
16 17 U.S.C. § 106(3).

17 38. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
18 U.S.C. § 106(5).

19 39. The Defendants reproduced the Work in derogation of Righthaven's exclusive
20 rights under 17 U.S.C. § 106(1).

21 40. The Defendants created an unauthorized derivative of the Work in derogation of
22 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

23 41. The Defendants distributed, and continue to distribute, an unauthorized
24 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
25 17 U.S.C. § 106(3).

26 42. The Defendants publicly displayed, and continue to publicly display, an
27 unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive
28 rights under 17 U.S.C. § 106(5).

43. Automotive has willfully engaged in the copyright infringement of the Work.

44. Source Interlink has willfully engaged in the copyright infringement of the Work.

45. The Defendants' acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

46. Unless the Defendants are preliminarily and permanently enjoined from further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus entitled to preliminary and permanent injunctive relief against further infringement by the Defendants of the Work, pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;

2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

a. All evidence and documentation relating in any way to the Defendants' use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;

b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and

c. All financial evidence and documentation relating to the Defendants' use of the Work;

3. Direct Network Solutions and any successor domain name registrar for the Domain to lock the Domain and transfer control of the Domain to Righthaven;

4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. § 504(c);

5. Award Righthaven costs, disbursements, and attorneys' fees incurred by Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

6. Award Righthaven pre- and post-judgment interest in accordance with applicable law; and

7. Grant Righthaven such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

Dated this twenty-first day of September, 2010.

RIGHTHAVEN LLC

By: /s/ J. Charles Coons
J. CHARLES COONS, ESQ.
Nevada Bar No. 10553
JOSEPH C. CHU, ESQ.
Nevada Bar No. 11082
9960 West Cheyenne Avenue, Suite 210
Las Vegas, Nevada 89129-7701
Attorneys for Plaintiff